IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTFGION

A.O. NO.751 OF 2004

The New India Assurance Co.Ltd.,
having its regional office at
"Sharada Centre, 2nd Floor,
Near Nal Stop, Erandawana,
Karve Road, Pune 411 004
Through its Deputy Manager,
Mr.Karve. ... Appellant
(Orig.Applicant)

V/s

1.Smt. Sitabai Sahadu Wadekar
Aged 62 Yrs. Occ: Household,
2.Smt.Ranjana Kisan Wadekar
Aged 39 Yrs., Occ:Household,
3.Kishore Kisan Wadekar,
Aged 20 Yrs., Occ: Service,
4.Kum Rakhi Kisan Wadekar,
Aged 18 Yrs., Occ: Household,
All residing at Wade, Taluka
Khed, Dist. Pune,
5.Shri Mehboob Mohammad Tamboli
Adult, Occ: Business,
residing at Vadgaon,Dist.Thane. ... Respondents
(Orig.Opponents)

Miss Maya Sadhwani for appellants
Mr. Dilip Bodake for respondents No.1 and 2

Coram: A.S. Oka,J.

Date : 8th February,2005

ORAL JUDGMENT

1. Heard the learned counsel for the parties.By impugned judgment and order dated 5th July 2004, the learned member of Motor Accidents Claims Tribunal,Pune has rejected the application made by Appellant/Insurance company for setting aside the award passed on 30th June 2003 and for the restoration of claim petition.By the impugned order the said application has been rejected.

2. The original Award was passed on a claim petition under section 166 of Motor Vehicles Act 1988 (hereinafter referred as the said Act of 1988). All the provisions of Code of Civil Procedure,1908(hereinafter referred as the said Code) are not applicable to Claims Tribunal establish under section 165 of the said Act 1908. Rule 275 of the Maharashtra Motor Vehicles Rules,1989 provides that certain sections of the said Code mentioned therein are applicable to proceedings before the tribunal. Rule 276 provides that certain Orders and Rules of said Code are applicable to the tribunals constituted under the said Act of 1988. I find that neither section 104 nor Order 43 of the said Code are made applicable to the tribunal constituted under the said Act of 1988. Therefore, this Appeal from Order is not maintainable. Hence, Appeal from Order is dismissed as not maintainable.

There will be no order as to costs.

(A.S.Oka,J.)